

Friday, May 4, 12

/DOUBT

ON Agnotology:

Manufacturing doubt is the full-time goal of a defense lawyer. (Odd that Proctor and his colleagues don't mention that, to my knowledge). (And the business of a politician, about the policies or character of his or her rivals. Or a corporation vying for a contract, about his rivals' claims.)

But the standard of "beyond a reasonable doubt" is appropriate (almost only?) for deciding to impose criminal penalties on an accused: above all, for the death penalty.

(And there is growing evidence that even that isn't good enough to protect a significant number of innocent people to execution. So the penalty itself is being challenged and may be abolished, as in Europe: **no one** will face it, whether there is doubt or none. The "problem" is abolished.)

Even for lesser criminal offenses, the standard is: guilt must be established "beyond a reasonable doubt."

(Is this also true for impeachment?)

But in other circumstances, it is rarely if ever the appropriate standard. One chooses among gambles: there is uncertainty, or "doubt" for all or most options: at least, for "events" if not for outcomes (and usually for outcomes, and even values, payoffs, priorities).

In particular, it should not be the standard for regulation: though those who are against all regulation (libertarians, now Republicans) argue that it should be. "To regulate something, let alone to ban it or withdraw a product, the regulators must sure that it is "too" harmful "with certainty, or beyond a reasonable doubt."

Or, to hold an official personally accountable—the Supreme Court seems to have held, leading to an appellate court ruling (see NYT ed today, on Padilla suit against Yoo)—it must be shown "beyond a reasonable doubt, beyond debate."

(The appellate court held that it was not beyond reasonable debate whether Padilla was subject to "torture": but the NYT says that was not the appropriate standard for holding Yoo accountable, especially since it was beyond debate that what Padilla was subjected to—partly as a result of Yoo's unreasonable legal advice—was cruel, inhumane and shocking (and some of it **was** clearly torture).

There are also "guilty pleasures" –above all, cigarette smoking, or driving gas-guzzling cars—which customers are loath to give up unless they are virtually certain

that it will cause them harm or death. (They “should not” “reasonably” judge this way, but they do, and can easily be encouraged to persist: it is “rational” in economists’ terms). In this case, the companies not only manufactured doubt when it was unreasonable, but did so knowing that they were encouraging actually-suicidal conduct. The opposition to knowing or accepting the truth about climate change is similar. Manufacturing “controversy” especially among “experts, scientists”—and claiming that it persists, when it really does not-- can be equally spurious, a creator of doubt. And nuclear winter. (And evolution). (Lead, asbestos, Vioxx, etc.)

Potential whistle-blowing officials are usually deterred by judging what to do as if it were wrong (as well as certainly dangerous to their jobs and careers) to reveal lies, crimes or reckless behavior of their superiors **unless** they were sure “beyond a reasonable doubt” that their superiors were acting inappropriately.

(This rationalizes a human unwillingness to risk or accept one’s own punishment or ostracism for the benefit of others or the law or principles; it’s “not one’s job,” it violates promises to or understandings of the group or firm, the boss or group must be “given the benefit of the (any!) doubt” (even if “unreasonable”), you have loyalties to your family and to your work-mates (who will suffer collateral damage from your revelations, guilt by association, group-punishment: RAND). It sets a standard that cannot be assuredly met, especially with compartmented information.

So doubt can be unreasonable—even in making decisions where “-near-certainty” is appropriately required—though that standard is rarely appropriate, despite the self-serving claims of officials and businesses.

One can also be in doubt about one’s risks/probabilities (ambiguity: as on climate change, or the chances of nuclear war). How then to proceed? “More research” may indeed be needed, or exploration of alternatives; or a “conservative” (or wishful!) course be chosen.

For libertarians, the conservative choice is not to regulate, not to ban, not to impede contracts or commerce or the market.

For militarists, the “conservative” prudent course may be to preempt! Or prevent! And surely: to buy arms (all the rivals, if necessary—or if not necessary), build up the services, deploy. (On assumption that this doesn’t affect the opponent’s behavior, or the risks the arms will be “needed.”)

(How can a nuclear weapon be “needed” to be launched? A) It’s needed to threaten. b) For counter-force. (c) supposedly: to destroy opponent’s ability to recover! (A preventive, and punitive, purpose. Wildly irrational , monstrous. Though see actual practice in Gulf War, Kosovo, Iraq! (see long-lasting effects of CBU’s! and herbicide)

Note: Brzezinski's idea of targeting ethnically—Russians—contemplates preparing to commit genocide. But even as a threat, it could only be effective if it were communicated! (Did he really imagine that Russians would expect to survive the SIOF otherwise? Or that they would?) But did he do that?! Otherwise: another example of the Strangelove Perplex (a threat that sounds so irrational and criminal that it is not communicated to the opponent: but actually prepared for execution, as if it had been threatened; and apt to be triggered if the opponent, in ignorance of it, does engage in war!)

(Is it only attackers/invaders who suffer PTSD?? VN? Iraq? Afghan?)

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